

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JUAN LUIS LEONOR,)	
)	
Plaintiff,)	4:04cv3330
)	
vs.)	MEMORANDUM AND ORDER
)	
FRED BRITTEN, et al.,)	
)	
Defendants.)	

This matter is before the court on the following pending motions: (1) filing no. 46, the Motion to Compel Discovery filed by the plaintiff, Juan Luis Leonor, a prisoner in the custody of the Nebraska Department of Correctional Services ("DCS"); (2) filing nos. 47 and 49, the plaintiff's Motions to Extend Time to File Motions to Amend Pleadings; (3) filing no. 75, the plaintiff's Motion to Strike Defendants' Motion for Summary Judgment; and (4) filing no. 84, the defendants' Motion for Stay of Proceedings and Protective Order. In his complaint, the plaintiff asserts federal civil rights claims pursuant to 42 U.S.C. § 1983, alleging that the defendants violated his right of access to the courts.

Filing no. 46, the plaintiff's Motion to Compel Discovery, is granted. The defendants shall provide the plaintiff with a copy of every document responsive to the plaintiff's requests for production of documents by no later than January 17, 2006. The court construes the scope of the requested documents as any and all inmate interview requests, kites and grievances submitted by the plaintiff related in any way to the law library (time in the law library, access to the library, sufficiency of the library, etc.). If the defendants have produced **all** such documents already, an Affidavit to that effect signed by defendant-Fred Britten shall be served on the plaintiff and filed with the court. In addition, the defendants

shall respond to the plaintiff's interrogatories by no later than January 30, 2006.

In filing nos. 47 and 49, the plaintiff requests additional time to amend pleadings, if necessary to correct errors, after the defendants properly respond to the plaintiff's discovery requests. In filing no. 39, the court's initial progression order, the court established a deadline of June 30, 2005, for any motions to amend pleadings. Filing nos. 47 and 49 are granted in that the June 30, 2005 deadline is vacated, and filing no. 39 is hereby amended accordingly. The court will consider any future motion(s) to amend pleadings without regard to the former deadline. However, while amendments to clarify claims or correct errors are likely to be granted, any motion to add new claims or parties is less likely to be granted.

The plaintiff's Motion to Strike Defendants' Motion for Summary Judgment for lack of numbered paragraphs has become moot. The defendants have submitted amended pleadings. Therefore, filing no. 75 is denied.

Filing no. 84, the defendants' Motion for Stay of Proceedings and Protective Order, is granted in part and denied in part. The court has previously refused to stay discovery (see filing no. 73), stating:

The defendants base their Motion to Stay Discovery on their claim to qualified immunity asserted in filing no. 68, their recently filed Motion for Summary Judgment. However, in filing no. 68, the defendants also raise many factual reasons why the plaintiff's allegations cannot be true, and the plaintiff's allegations, if true, may indeed defeat qualified immunity. The defendants may not file a motion asserting that no factual issues exist and at the same time deny the plaintiff access to the facts. Therefore, filing no. 71, the defendants' Motion to Stay Discovery, is denied.

Thus, discovery will not be stayed. However, filing no. 39, the court's initial progression order, is further amended to vacate all deadlines related to the pretrial

conference and preparation and submission of the Order on Final Pretrial Conference. At this time, no activity related to the pretrial conference and preparation and submission of the Order on Final Pretrial Conference shall occur until further order of the court.

THEREFORE, IT IS ORDERED:

1. That filing no. 46, the plaintiff's Motion to Compel Discovery, is granted;
2. That filing nos. 47 and 49, the plaintiff's Motions to Extend Time to File Motions to Amend Pleadings, are granted;
3. That filing no. 75, the plaintiff's Motion to Strike Defendants' Motion for Summary Judgment, is denied as moot; and
4. That filing no. 84, the defendants' Motion for Stay of Proceedings and Protective Order, is granted in part and denied in part, as follows: Discovery is not stayed; but all activity related to the pretrial conference and preparation and submission of the Order on Final Pretrial Conference is stayed until further order of the court

January 4, 2006.

BY THE COURT:

/s Richard G. Kopf
United States District Judge